



**TOWN OF WEARE**  
PLANNING BOARD  
ZONING BOARD OF ADJUSTMENT  
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Naomi L. Bolton  
Land Use Coordinator

**Office Hours:**  
Monday  
Tuesday  
Thursday  
8 AM – 4:30 PM

**ZONING BOARD OF ADJUSTMENT  
MINUTES  
AUGUST 17, 2003  
(Approved as amended 10/5/04)**

**PRESENT:** Tim Galvin, Chairman; Forrest Esenwine, Vice Chairman; Leon Methot; June Purington; Jack Dearborn; Matt Pelletier, Alternate; Naomi Bolton, Land Use Coordinator.

**GUESTS:** Burton Brown; Janet Brown; Richard Brown; Attorney Mike Ryan; Jeff Gilman; Theresa Gilman; Jimmy R. Gilman; Ginger Esenwine; Jackie Fitzgerald; Gerry Beique; Shawn Zito; Verna Martin; Alicia Walker; Jan Proctor; Mark Przekurat; Heleen Kurk; Neal Kurk;

**I. CALL TO ORDER:**

Chairman Tim Galvin called this meeting to order at the Town Office Building at 7:30 PM. Chairman Galvin explained the hearing process, which will be followed this evening. Chairman Galvin appointed Matt Pelletier as a voting member for tonight's meeting.

BY-LAWS: Chairman Galvin moved to accept the by-laws as amended at the August 3, 2004 meeting, Forrest Esenwine seconded the motion, unanimous vote in favor, therefore motion carries.

**II. PUBLIC HEARINGS:**

Case #1704 Richard Brown (continued hearing)  
Variance, Article 25, Section 25.4.1 & 25.6.1  
Applicant is requesting permission to build a new house that extends into the front setback.  
Tax Map 405-058 37 George Moody Road

Mike Ryan, attorney was present for this hearing on behalf of his client, Richard Brown who was also present. Mr. Ryan explained that they are here tonight for only an area variance and not a use variance, because they feel that there is already a home on the lot that has been there since the 1920's so the use of the lot is pre-existing. They are only going to proceed with the area variance because of the setback requirement. The new home location will actually be less into the setback than the existing home. Mr. Ryan stated that because of the existing

wetlands as shown on the map done by Mr. Dahlberg, as well as the current location of the septic system the home location cannot meet the setbacks. Mr. Ryan then went through the new application by responding to the hardship points as follows:

1. That there **will not** be a diminution of a value surrounding properties as a result of the granting of this variance because: A new house will be built that will increase surrounding property values.
2. That the granting of the variance **will not** be contrary to the public interest because: No particular public interest is involved.
3. That enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction:
  - aa. An area variance is needed to enable the applicants proposed use of the property given the special conditions of the property because: The best area to build a new house is where proposed because of existing brook and wetlands. New house will be further from road than existing house.
  - bb. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance because: To build a new house in the exact location of the existing house would require homeowner to live elsewhere for a period of time causing financial hardship.
4. That through the granting of relief by variance substantial justice will be done because: There will still only be a single family home on the lot. The granting of the variance will allow for the construction of a new house that is more in compliance with setback zoning regulations than the existing house.
5. The use, for which the variance is requested, will not be contrary to the spirit of the ordinance because: The lot today contains an old single family home that needs to be repaired. The existing home has been on the lot prior to zoning. The new house will just replace the old.

Approving Abutters: Burt Brown, abutter, stated that he felt this will be a wonderful experience and if anyone ever went through the old house would see why he is doing this. Mr. Brown stated that for the record he and his wife are in favor of this and hopes the board will approve it.

Disapproving Abutters: NONE

Other Boards: NONE

Public At Large: NONE

Being there was no further questions or comments, Chairman Galvin closed this hearing at 7:54 PM.

#### **CASE DECISION – CASE #1704:**

Point #1: Forrest Esenwine moved to accept point #1; June Purington seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #2: June Purington moved to accept point #2; Forrest Esenwine seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #3aa: Forrest Esenwine moved to accept point #3aa, June Purington seconded the motion. Discussion: The board discussed the possibility of the relocation of the well and septic, and Mr. Brown stated that he was going to be drilling another well as the current one is not adequate. As far as the septic system, he didn't think it would be an issue, but if the board wanted it relocated as part of the approval, he would be in agreement to that. Vote: Unanimous vote in favor (Purington, Pelletier, Galvin, Esenwine).

Point #3bb: June Purington moved to accept point #3bb; Chairman Galvin seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #4: June Purington moved to accept point #4; Matt Pelletier seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #5: June Purington moved to accept point #5, Matt Pelletier seconded the motion. Discussion: The board felt that because of the circumstances, there is nothing against the zoning ordinance in this request. Vote: Unanimous vote in favor (Purington, Pelletier, Galvin, Esenwine).

Forrest Esenwine moved to grant the variance for Case #1704 with the condition that the well and septic system be relocated in an appropriate place as to meet the requirements of state statutes, moving to the septic system to the northwestern end and the well in the southwestern end keeping as far away as possible from the brook and wetlands, June Purington seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, Esenwine).

Case #1804 Jeffrey A. Gilman (continued hearing)

Variance, Article 17, Section 17.1.1

Applicant is requesting permission to build a single family home.

Tax Map 406-048

Huntington Hill Road (Class

VI)

Jeff Gilman was present for this hearing. Mr. Gilman explained that he is here requesting permission to put a single family manufactured housing unit on a full foundation on a lot that has been in his family for over 80 years. Mr. Gilman then went through the points of hardship as follows:

1. There will not be a diminution of value of surrounding properties as a result of the granting of this variance because: this will be a very nice manufactured housing unit, placed on a foundation, which will be as large and as nice as any home in the neighborhood. Thus, it will not harm the value of surrounding properties.
2. The granting of a variance will not be contrary to the public interest because: (a) without the variance, I can't place a home on a lot that is zoned for residences by right. (b) The lot will be more valuable to the town from a tax perspective if it is developed. (c ) I can upgrade the condition of the road so vehicles can use the improved part to get back to the nearby government land. (d) No other lot will be affected.

3. That enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction:
  - a. As applied to the petitioner's property will interfere with the petitioner's reasonable use of their property considering the unique setting of the property in its environment for the following reasons: This is the only lot on this side of Huntington Hill Road without Class V road frontage – which make it unique. Despite that, if I improve the road, the lot can easily be used as a residence which is reasonable. The residence will look just like other single family houses, even if it is a manufactured housing unit.
  - b. As specifically applied to the petitioner's property the ordinance has no fair and substantial relationship to the general purposes of the zoning ordinance for the following reasons: The purpose for Class V road frontage is for safety and easy access. You only need to go in 300' from a Class V road to get to my lot – which I can improve to town gravel road standards. The purpose of the restrictions on manufactured housing units is to prevent unsightly, temporary housing on residential lots. My unit will look and feel just like a single family home.
  - c. If relieved by a variance, will not injure the public or private rights of others for the following reasons: I will be the only full-time user of the road. No one else, public or private, will be harmed or injured by this approval. My home will also be compatible with other structures in the area, so I won't harm their value or the style of the neighborhood.
  - aa. An area variance is needed to enable the applicants proposed use of the property given the special conditions of the property because: If the variance is not granted, I will have a non-conforming, unbuildable lot that is almost useless. Waiving the 200 foot requirement is only needed for this 1 lot on this side of Huntington Hill Road. I can't have a home without this variance.
  - bb. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance because: There is no way to extend my lot to get enough frontage on a Class V road without making another lot non-conforming.
4. That through the granting of relief by a variance substantial justice will be done because: It will allow a productive use of the land without any harm or injury to the public or neighbors. Also, no other lot but mine needs this variance on this portion of Huntington Hill Road, so no poor precedent is set. In addition, I only need to travel 300 feet on the Class VI road, which is less than a lot of others in Weare who live on Class VI or private roads and must travel much deeper on them.
5. The use, for which the variance is requested, will not be contrary to the spirit of the ordinance because: The ordinance intends to permit single family residences in this zone – which is what I want to do. The ordinance

also intends to ensure safe access to lots, which I can easily create. Thus, my proposal satisfies the spirit of the ordinance.

Mr. Esenwine asked Mr. Gilman if he understands the cost to upgrade approximately 300 feet of road. Mr. Gilman responded that he had been down to see Carl Knapp, Public Works Director who explained what would be the minimum requirements to make the road accessible for emergency vehicles and he felt that he has the ability to do that. The board then inquired as the ability to further subdivide the property as it contains around 30 acres. Mr. Gilman responded that it would be his intention not to subdivide the property. The board asked if Mr. Gilman would have a problem with that being a condition of approval. Mr. Gilman responded, no.

Approving Abutters: NONE

Disapproving Abutters: NONE

Other Boards: NONE

Public At Large: Jim Gilman stated that Jeff is the fifth generation owner of this land. His plan is to not disturb any of this land that doesn't need to be disturbed. There used to be a home on this lot several years ago that was owned by his uncle. Mr. Gilman stated that he would like to speak in support of Jeff's proposal.

Being there were no further comments or questions, Chairman Galvin closed the hearing at 8:40 PM.

#### **CASE DECISION – CASE #1804:**

Point #1: June Purington moved to accept point #1, Forrest Esenwine seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #2: June Purington moved to accept point #2, Tim Galvin seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #3a: June Purington moved to accept point #3a, Forrest Esenwine seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #3b: June Purington moved to accept point #3b, Matt Pelletier seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #3c: Matt Pelletier moved to accept point #3c, June Purington seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #3aa: Matt Pelletier moved to accept point #3aa, June Purington seconded the motion. Discussion: Forrest Esenwine stated that he wondered if we need to go through an area variance, because he has frontage on a Class VI road and the lot is large enough that meeting the required setbacks wouldn't be an issue. The board agreed with Mr. Esenwine. Matt Pelletier withdrew his motion and June Purington withdrew the second. Forrest Esenwine then moved to waive the area variance requirement on this application, June Purington seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #4: June Purington moved to accept point #4, Matt Pelletier seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Point #5: June Purington moved to accept point #5, Matt Pelletier seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

Forrest Esenwine moved to grant the variance for Case #1804 with the following conditions:

- June Purington seconded the motion, unanimous vote in favor (Purington, Pelletier, Galvin, and Esenwine).

## Clough Park Road

Chairman Galvin stated that he will be stepping down for this hearing because of other interests and asked that Vice Chairman Forrest Esenwine chair this hearing. Mr. Galvin then took a seat in the audience.

Mt. Dearborn Road

Gerry Beique was present for this hearing. Before the hearing got started, Naomi explained to the board and those present that on her voice mail she received a phone call from Sanford Surveying at 8:16 AM today. The message stated that they received a notice that one of their plans were being used for this hearing and without knowing what is going on they are not in favor of this plan proceeding at

this point. Naomi apologized for only getting the message a few minutes ago, as she was out of the Land Use Office today. The board felt that with this information, this hearing should be continued to next month to allow Mr. Beique time to speak with Sandford Surveying.

June Purington moved to continue this hearing to September 14, 2004, Forrest Esenwine seconded the motion, unanimous vote in favor (Purington, Pelletier, and Esenwine).

Chairman Galvin returned to the board and retained his position as Chairman.

**III. ADJOURNMENT:**

As there was no further business to come before the board, June Purington moved to adjourn at 9:35 PM, Forrest Esenwine seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator